

# **ATTACHMENT A**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of:	)
	)
Martha Wright, Dorothy Wade, Annette Wade,	)
Ethel Peoples, Mattie Lucas, Laurie Nelson,	)
Winston Bliss, Sheila Taylor, Gaffney &	)
Schember, M. Elizabeth Kent, Katharine Goray,	)
Ulandis Forte, Charles Wade, Earl Peoples,	)
Darrell Nelson, Melvin Taylor, Jackie Lucas,	)
Peter Bliss, David Hernandez, Lisa Hernandez	)
and Vendella F. Oura	)
	)
Petition for Rulemaking or, in the Alternative,	)
Petition to Address Referral Issues In Pending	)
Rulemaking	)

**AFFIDAVIT OF DOUGLAS A. DAWSON**

STATE OF MARYLAND  
COUNTY OF PRINCE GEORGES: ss

Douglas A. Dawson, being duly sworn, deposes and says:

**I. INTRODUCTION**

1. My name is Douglas A. Dawson, and I am the President of CCG Consulting, Inc. ("CCG"), located at 6811 Kenilworth Ave., Suite 300, Riverdale, Maryland, 20737. CCG is a general telephone consulting firm. CCG works for over 250 communications companies, which include local exchange carriers ("LECs"), competitive LECs ("CLECs"), cable TV providers, electric utilities, wireless providers, paging companies, municipalities and other governments and interexchange carriers ("IXCs").

2. I submit this affidavit in support of the above-captioned petition to have the Federal Communications Commission ("Commission" or "FCC") address certain issues involving prison inmate calling services referred to the Commission by the United States

District Court for the District of Columbia in *Wright, et al. v. Corrections Corporation of America, et al.* ("*Wright*").<sup>1</sup> I have specific experience and expertise relevant to the issues in this proceeding, which involves the provisioning of long distance calling for prison inmates. I have assisted in the launch of over 50 long distance companies in my career. In that role, I have done virtually everything associated with creating or running long distance businesses. I am also familiar with all regulatory aspects of long distance, including the development of rates and costs and the preparation and filing of tariffs. I have helped numerous companies select switching hardware for long distance service, and I know the capabilities and technical specifications of such hardware. I have negotiated numerous wholesale long distance service agreements between facilities-based IXCs such as Sprint, Frontier, Qwest and WorldCom, and resale carriers, and I understand the underlying long distance networks and issues associated with using them. I have had extensive experience with, and, consequently, have an in-depth understanding of, the capabilities and configurations of the network switching systems that lie at the heart of all telephone systems. I also have helped numerous companies with the provisioning of ancillary long distance products such as calling cards, operator services, pre-paid cards, international toll and Internet telephony. My CV, including prior testimony, is appended as Exhibit 1.

## **II. PURPOSE OF THIS TESTIMONY**

3. In this affidavit, I have been asked to examine whether competition would work in the prison calling environment. Because the *Wright* case focuses largely on inmate calling at three specific prisons operated by the Corrections Corporation of America ("CCA") - the Central Arizona Detention Center ("CADC") in Florence, Arizona, the Torrence County Detention Facility ("TCDF") in Estancia, New Mexico, and the Northeast Ohio Correction Center ("NOCC") in Youngstown, Ohio - during a period when inmate calling services were

---

<sup>1</sup> CA No. 00-293 (GK) (D.D.C.).

provided there by Evercom Systems, Inc. of Irving, Texas ("Evercom"), I will use data relating to those facilities and Evercom to illustrate the points I want to make.<sup>2</sup> Evercom's inmate calling services to those prisons are typical, with regard to the rates and the methods used to bill long distance calls by prisoners, of most prison inmate calling services. The issue of inmate service competition is a generic question, and the conclusions drawn in this analysis would apply to all prison calling systems. CCA and Evercom controlled, and, in the case of the CADC and TCDF, still control, inmate calling on a monopoly basis from those three prisons and have permitted only a limited set of very expensive options for making long distance calls. I will analyze how competition could be brought to bear in inmate calling and demonstrate how it could lower inmate calling rates.

4. For the reasons set forth in this affidavit and based on my extensive background in the telecommunications field, I conclude that there are competitive alternatives to the monopoly environment found in these prisons. I will demonstrate a way that any prison system could allow open access to competition and still meet all of the security and other penological requirements of the prisons.

5. In brief, in this affidavit, I will: a) describe the history and development of telephone systems – both generally as well as specifically for prison systems; b) discuss the various penological requirements that must be satisfied by a prison calling system; c) discuss specifically the current payment methods that are used with prison calling systems; d) demonstrate that there are no justifications for prison administrators not to allow debit card or debit account calling or for inmate service providers not to offer debit card or debit account calling; and e) demonstrate the feasibility and reasonableness of opening inmate calling services to competition, so that inmates have a choice of carriers.

---

<sup>2</sup> On information and belief, Evercom is still providing inmate calling services to the CADC and TCDF.

### III. PRISON TELEPHONE SYSTEMS

6. Since I will be discussing specific details of the various telephone systems used in prisons, such as debit systems and collect call systems, I will first discuss telephone systems generally and describe how they work. I will then discuss the specific attributes of the prison systems that relate to this proceeding.

7. Historically, all telephone systems in the U.S. began with operator assisted calling. Every call required an operator to complete a call using the large plug panels that we have all seen in movies. Even today, it is still possible to use a live operator to complete a call. In the late 1930s and into the 1940s, local switches were developed that allowed some automation in completing local calls; that is, a caller could complete some calls without using a live operator, as long as the called party was connected to the same local switch. However, all long distance calls, or even calls to other switches in the same city, still required live operators. Beginning in the 1940s and into the 1950s, automated switches were introduced that allowed for the automatic switching of calls between local switches, and this allowed for the long distance network in place today, where dialing "1" plus the long distance number allows a caller to directly dial long distance calls without the intervention of an operator. The early local and long distance switches were electromechanical. They worked by creating a mechanical connection between the called and calling party, much as operators had done mechanically before that. These electromechanical switches were not very sophisticated, and they could not perform very many functions beyond connecting calls.

8. In the late 1960s, computer technology was introduced into telephone networks. With the advent of computers, a new set of telephone services, referred to as vertical features, was developed. Vertical features are computerized functions that provide callers more sophisticated services than simply the completion of calls, such as call waiting, call forwarding, call hold and speed dialing. These features relied on the new computer core of the switch to perform logical processes. With these new switches, the old electromechanical portions of the

switch used for basic call completion were replaced with computerized hardware. During this same period, the hardware that was used by the remaining operators was also computerized, and terminals that automated many of the operator's tasks replaced the old manual plug panels. However, even with computer assistance, collect and other similar calls still required live operators in order to be completed.

9. The next big breakthrough in telephone switching systems came in the early 1980s and was referred to as Signaling System 7 ("SS7"). SS7 is a technology that provides a second electrical path in the telephone network. The original path, referred to as the voice path, is where the electrical voice signal is sent across the network to complete calls. This new second signal, the SS7 signal, uses a different frequency and allows the switching system to communicate and perform tasks without disrupting the voice path. For example, the SS7 signal is the mechanism used to transmit the telephone number of the calling party and is what enables a new service like caller ID, which allows a called party to see the caller's phone number. The new telephone products that were enabled by SS7 were referred to generically as "CLASS" (Custom Local Area Signaling Services) features. The SS7 system allowed for many of the features present in the prison telephone systems in place today. For example, SS7 allows for prison officials to monitor the numbers that prisoners dial. Many of the new CLASS Features using SS7 required computerized databases, and these were introduced into the network in the early 1980s along with SS7.

10. The next technology breakthrough that is relevant to this case is the introduction of dial pulse recognition. With dial pulse recognition, any caller with a touchtone phone is able to give feedback to questions asked by a mechanized recording. For example, in the prison system, a mechanized recording may say "You have a call from prisoner X. To accept this call dial 5." The technology needed to do this on an automated basis was created in the late 1980s. This was a significant technological breakthrough in that, for the first time, collect calls and other similar types of calls could be completed without utilizing a live operator. This

technology relied on two technologies to be implemented. First, a phone company needed to update each subscriber line card so that a given subscriber could dial using a touch-tone phone. This required significant capital outlay and was usually done as part of updating and replacing the entire switch. Second, the phone company had to update the switch core itself to be able to recognize dial pulses.

11. There are recent technological changes that also impact prison telephone systems. The most recent breakthrough is voice recognition. Voice recognition just entered the market in a useable format in the late 1990s. Voice recognition technology allows the phone system to elicit responses from customers verbally without requiring them to dial digits, as is needed with dial pulse recognition. For example, a customer may be asked to answer "yes" or "no" to a question, and the voice recognition software is set to recognize one of these two answers. This technology is now widely used in the marketplace in various collect calling systems. Today, technology has taken another leap forward, and there are now switching systems that can recognize a person by his or her voice print using voice recognition software, thus eliminating the need for PIN numbers or the use of dial pulse recognition.

12. There is one additional technology that has evolved over time that is key to prison telephone systems, and that is recording technologies that make it possible to record and monitor calls. For most of the history outlined above, no widespread technology was available to record and monitor calls on an automated basis. It has been possible for a very long time to monitor calls by having a person tap into the calls and listen to them. The ability to record calls and to later listen to them, as prison officials require, is now a key penological requirement. The first hardware that could record calls on a wide-scale basis was available in the early 1970s. This consisted of little more than a bank of tape recorders that could allow for the simultaneous recording of many calls. Such a system required a massive storage of computer tapes, and it was not easy in such a system to pinpoint or retrieve a specific call from a specific inmate. Newer recording technology is available that solves such problems. Modern recording systems

use computer drum storage, much as is done for the storage of data on a commercial company's local area network. Such storage is done digitally, and a digital record is made of each call, thus making it easy to later retrieve specific recorded calls. The size and cost of the storage devices that can be used for such a purpose have drastically decreased over time, and the cost continues to decline as digital storage techniques improve year after year, with a seeming doubling in storage capacity per dollar every 18 months or so.

13. Because of the need to satisfy penological requirements, there are unique features of prison calling systems that, in combination, differentiate them from other types of telephone systems. For many years, prison systems were at the cutting edge of technology, as prisons tried to meet their requirements with the latest available technologies. However, with the advent of modern switching technologies, technology has finally caught up to the penological requirements, and there are now many different switching platforms that can be modified to meet the requirements of prison systems.

14. A prison calling system is comprised of four basic components. First is the switching platform referred to above. This is essentially a piece of hardware that allows for the dialing and completion of calls along with a core computer logic system that allows for the creation of specific features and functions that, taken together, are unique to prison calling requirements. The second requirement for a prison telephone system is a recording storage system that allows for the easy monitoring, recording and retrieval of prisoner calls as needed. The ideal prison recording system records calls automatically and also allows authorities to easily listen to calls later. Third, the prison telephone system requires a master control system that allows the authorities to quickly intervene and modify prison calling patterns as needed. Such a master control system is basically a terminal with an easy interface into the switching system software, where authorities can make quick changes to such functions as the list of numbers that a specific prisoner is permitted to call. All modern switching systems have such control interfaces. The last component of a prison telephone system is the software



programming that enables the features that are unique to the prison system. For example, a feature allowing a called party to request to be automatically removed from a prisoner's calling list is unique to the prison system. Such a feature is created by specific software developed by a prison switch vendor to meet this specific requirement.

15. Prison telephone systems have evolved over the years in response to two trends. First, such systems have evolved to introduce new functions and features in response to the availability of new technology, as outlined above. To illustrate, consider the example of one specific penological requirement: that prison telephone systems allow prison administrators to restrict prisoners to a relatively short list of pre-approved telephone numbers that they may call. This particular requirement was not feasible until the late 1960s, when similar features were introduced into commercial telephone switching systems. As switches became more like computers, it became technically possible to devise a system that could limit prisoner calls to specific numbers. Thus, each separate penological requirement for prison telephone switching systems has only been made possible, and thus really created, in response to changes in technology. In summary, technology has expanded the ability to provide more functions with a switch, and the basic requirements for prison switching systems have constantly evolved to exploit these technical capabilities.

16. The second trend that affected the development of prison switching systems was the expansion of prisoner calling rights. For a long time, prisoners were allowed to make very few calls. However, as prisoners won greater calling rights, prison telephone systems were developed to respond to these expanded calling rights while meeting penological requirements. As prisoners called more, the penological requirements for the prison systems have grown to meet the evolving challenges presented by prisoners.

17. For many years, all prison inmate calls were collect calls. This was largely due to the fact that only a live operator could satisfy the basic penological requirement that prisoners could not make calls to those who did not wish to talk to them. There was no other way

historically to automate this function, and thus the intervention of a live operator and the use of collect calling was necessary to ensure against the harassment of witnesses and other similar abuses. Live operators are no longer needed to meet this requirement. With easily programmable switches, very complex features can be introduced today, and if a switching requirement can be imagined, it probably can be programmed.

18. The three prison facilities under examination in this proceeding -- the CADCF, the TCDF and the NOCC -- have used or now use Evercom's telephone calling systems and services for inmate calling. Evercom specializes in prison calling systems and services. According to Evercom's year-end 2000 10-K Report ("10-K Report"), it served almost 2000 prisons in the United States as of December 31, 2000.<sup>3</sup> Evercom refers to its product as CAM (Inmate Call Access Management).<sup>4</sup> The Evercom CAM system can meet all of the penological requirements described in this affidavit. Note that Evercom is not the only provider of prison telephone systems. There are several other prison switch providers, but Evercom is the predominant supplier of prison calling systems in the U.S. marketplace today.

#### **IV. PENOLOGICAL REQUIREMENTS OF PRISON CALLING SYSTEMS**

19. The following description of the penological requirements of prison inmate telephone systems is derived from various documents gathered from the manufacturers of such systems. Additionally, these requirements are usually specified in great detail in the various periodic Requests for Proposal ("RFPs") issued by the prison administrators when they are seeking a new telephone service provider. For example, these requirements are specified in detail by the Federal Bureau of Prisons ("BOP") in its 1997 Request for Proposal for its inmate

---

<sup>3</sup> Evercom, Inc., SEC Form 10-K, Part II, Item 7, at "Overview" (filed June 1, 2001 for the fiscal year ended December 31, 2000) ("10-K Report"). The relevant portions of the 10-K Report are attached hereto as Exhibit 2.

<sup>4</sup> *Id.* at Part I, Item 1, "Systems."

telephone system, relevant portions of which are attached hereto as Exhibit 3 ("BOP RFP").<sup>5</sup> I also understand from a technical perspective how all of these penological requirements can be made to work in a prison calling system. These penological requirements for a prison calling system can be broken down into the major categories listed below. Different prisons have selected different subsets of these requirements, but overall, most prison systems are designed to fulfill the same basic list of penological requirements, which are:

- Number Control
- Personal Allowed Numbers ("PAN")
- Individual Phone and Phone Group Definitions
- Voice Prompts
- Personal Identification Numbers ("PIN")
- Monitoring
- Recording and Playback
- Reporting
- Calling as a Commodity

20. **Number Control** consists of those telephone features, such as blocking, unblocking, validation and the defining of telephone numbers, that allow the prison to control the telephone calls that can be placed by prisoners. With number control, prisons can satisfy various penological requirements. One almost universal use of number control is the prohibition against inmate calls to certain types of numbers, such as 800 or other toll-free numbers or 900 numbers. This stops prisoners from re-originating calls. It is possible, when dialing 800 or other toll-free access numbers that terminate to a non-prison telephone switch, to connect with call systems that allow the caller to get an additional dial tone and then re-originate the call to another number. The blocking of 800 and 900 calls greatly reduces the chances of

---

<sup>5</sup> Federal Bureau of Prisons, Request for Proposal, June 2, 1997 ("BOP RFP").

call re-origination. In a modern switch, numerous types of blocking can be performed. Universal blocking rules block certain categories of calls for all inmates, such as not allowing any prisoner to call an 800 number. Individual blocking rules can also be applied, allowing certain categories of calls to be blocked for certain prisoners. Blocking can be made very specific. For example, a prison can prevent calls to an individual number, and many prison systems allow outsiders to elect not to receive calls from prisoners.

21. A related feature to blocking is **Personal Allowed Numbers ("PAN")**. PAN is a penological requirement that enables prison administrators to restrict inmate calling to a pre-approved list of telephone numbers. A PAN system thus prevents harassing calls and fraudulent telephone schemes involving calls to non-approved numbers. Any attempt to dial a number not on a PAN list is blocked by the switch.

22. Another important set of penological tools is **Individual Phone and Phone Group Definitions**. This means that prisons can control calling in any manner they choose. For example, they can limit the duration of calls. They can track the time used by a given prisoner and cap his total usage at some fixed ceiling amount per day. The prison can restrict the hours of phone usage, either universally or by prisoner. Phone Group Definitions give prison administrators control over the basic functioning of the phone system.

23. **Voice Prompts** is a series of functions that allow the prison to control how prisoners can place and use calls. For example, voice prompts can be used to warn prisoners that a call will soon be terminated if it is running too long. One penological use of voice prompts is the use of a pre-recorded announcement to let a called party know the name of the inmate making the call. Voice prompts also allow the called party to accept or reject the call before the prisoner comes on the line. The announcements now provided by voice prompts were historically provided by live operators, but these functions have been replaced today with a mechanized and computerized series of recordings designed to meet every possible and allowable type of call.

24. Another penological concern is that each inmate should have a unique **Personal Identification Number ("PIN")** that must be used in order to initiate calls. PINs ensure that inmates are identified and tracked individually. Every call can be tracked and traced to an individual inmate. The use of PINs also enables administrators to provide different telephone privileges to each inmate. The prison can place restrictions on any aspect of calling, from who can be called to how long calls last, by having all calls use the PIN system for access. The use of PINs is widespread in the telephone industry outside of prisons. PINs are used routinely for credit card calls, debit card calls, pre-paid card calls, international callback calls, within the PBXs of many large companies and in many other applications. PIN verification works by using a lookup table. In the prison example, the lookup table is a very simple one that consists of just one PIN for each prisoner. If the prisoner attempts to use a PIN that is not in the table, a call cannot be completed, and, usually, the prison is notified of the fraudulent attempt.

25. Modern prison telephone systems also require **Monitoring**. Monitoring allows prison officials to listen to calls on a real-time basis. Prisons routinely monitor inmate calls to make certain that no crimes are being committed or that people are not being harassed. A monitoring system allows the prison administrators to listen at any time to specific prisoners or to choose calls at random to monitor. Many prison telephone systems include camera surveillance of telephones along with voice monitoring. This allows the prison officials to see who is making the call while listening to the conversation.

26. Another requirement of modern prison telephone calling systems is **Recording and Playback**. This allows prison officials to listen to calls that were made in the past. For example, should a prison administrator discover a case of telephone fraud, the administrator can listen to phone calls made by the same prisoner in the past. The recording of calls is done by separate hardware that is not an integrated part of the switching system. Modern telephone recording systems usually use drum storage devices to capture and store calls, and the number of calls and the length of retention of recorded calls is limited only by the size of the storage

system chosen. Such storage devices can be programmed to allow for instant retrieval of recorded messages by the authorities, much as is done by voice mail systems widely in use. In order to control the costs, most recording systems also allow the calls to be moved from drum storage to more permanent media for long-term retention.

27. Another penological requirement is **Reporting**, which allows the prison officials to create rules for calling and then to report any violations. For example, a system might record instances when a prisoner does not know his PIN on the first try. This will help identify any prisoner who is fishing for valid PINs by trial and error. The same sort of system can be used to track sequence calling by an inmate, that is, in calling numbers that are close to each other numerically. Such calling patterns are often associated with attempts at fraud. Reporting can also show when prisoners try to call people whose numbers are blocked for them, such as witnesses and judges. Modern reporting systems have become quite sophisticated in response to the demands placed upon the telephone system by prisoners.

28. A final penological requirement is one that is not directly related to the phone system hardware. Prisons prefer to have an inmate calling system that does not create a commodity, and thus is not subject to coercion or extortion among prisoners.<sup>6</sup> Typically, any system that involves funds or a commodity that can be used by prisoners can be subject to these types of abuses. No calling system – be it collect only or a debit system – can completely eliminate such problems in a prison. The ideal system will have stringent enough rules to make calling reasonably unattractive as a commodity. For example, closely scrutinizing the pre-approved list of telephone numbers that each prisoner is allowed to call greatly reduces the attractiveness of another prisoner's account, particularly if such scrutiny is combined with blocking that precludes the re-origination of calls.

---

<sup>6</sup> This issue is not unique to a prison's telephone system, inasmuch as inmates routinely maintain commissary accounts for the purchase of sundry items.

29. These penological requirements, taken together, are unique to a prison calling system.<sup>7</sup> Many of these features are used individually elsewhere in the telephony world, but only the prison systems brings all of these unique attributes together as a package. There is a definite incremental cost of providing these features. These are costs that should be recoverable by the provider of the prison calling system.

## **V. COST ISSUES**

30. Historically prison inmate calling required collect calls using live operators. Only a live operator could make sure that prisoners were limited to the types of calling that the prison authorities allowed. But with today's technology, there is no longer any reason to use only collect calling for prison calls. For example, the Evercom system in the three sample prisons it serves or has served allows for at least two types of calling. First, it offers an automated collect call, meaning that the called party pays for the call. Second, it offers a debit product, meaning that the call is pre-paid before being placed.

31. As described above, collect calling systems historically required live operators. Ascertaining whether the called party was willing to accept charges for a call required a live operator because there was no technology available to automate such a function. Today, the vast majority of commercial collect calls are performed entirely by computers and do not require a live operator. There are a number of automated collect call products available to the general public such as 1-800-COLLECT and 1-800-CALLATT. To a large degree, except for the extra layer of penological functions, these commercial collect systems operate much like the prison collect system. To place a prison collect call, a prisoner must first dial a desired number. The prison system then maintains complete control of the call. Typically, it mutes out the prisoner so that he cannot hear the called party being queried by the automated prompts. The computerized system connects to the desired number, and when the called party answers, a

---

<sup>7</sup> The requirements discussed above are also reflected in the portions of the BOP RFP attached hereto as Exhibit 3.

voice prompt will ask whether the called party wishes to accept the charges for a call from the prisoner. Because the prisoner is muted, the system uses a recording of the prisoner's name to announce the request. The called party is given instructions on how to accept the call if he or she wishes to pay for it. In some newer systems, the called party can accept the call by verbally saying "yes," using voice recognition software that recognizes simple words. In most prison systems, the called party will be asked to dial a digit on the phone, for example, "Dial 5 if you want to accept charges for this call." When the system receives an affirmation that the call will be paid for, the prisoner is taken off of mute, and the call is completed.

32. The network process required for completing a prison pre-paid debit call is almost identical to the processing of a collect call. In a debit system, a prisoner will also dial the desired number. The system will then put the prisoner on hold until it determines that there are enough funds available to pay for the desired call. Once it has been determined that sufficient funds exist, the call is completed. A debit platform is virtually identical to a collect system. The debit system requires the same major components -- a switching platform, a storage device with a voice mail-like system, a master control system and unique software. The only real difference between the prison collect call product and the pre-paid debit product is who pays for the calls and hence how payment is made.

33. This is a very important distinction and something that has been brought about by the convergence of technology. For most of the history of the industry, collect calls were very different from other types of calls. They required unique equipment and the use of live operators. As such, collect calls were billed under unique rate structures. However, the unique nature of collect calling has now disappeared. As can be seen in these prison systems, there is no practical difference between a prison debit call and a prison collect call, except for the decision of who is going to pay and how payment will be made. Moreover, because, as discussed below, debit calling eliminates the significant amounts of uncollected revenues that service providers experience with collect calls, debit calls ought to be the preferred prison



calling methodology. Both debit and collect calls meet all of the same penological requirements and use the same equipment. From a network perspective, the only difference is a very minor one related to call routing in the case of debit calling in order to verify that there are existing funds for the call -- a change that does not add cost to the call processing. Because debit card calling meets all of the same penological requirements as collect calling, there is no justification for restricting inmates to collect calling. All prisons thus should be required to allow debit calls. Such calls are less expensive for the providers, by definition, and should thus cost less for prisoners and families of prisoners.

34. Some prisons have not allowed debit calling, typically, on the grounds that the administrators do not want the extra administrative burdens of handling the cash for the debit payments.<sup>8</sup> Prison administrators claim that creating an additional source of prisoner funds might generate an additional possibility of extortion among prisoners. However, there are many options for establishing a debit calling system that can overcome these objections. For example, the federal prison system has had a debit product for prisoners for many years. One way to avoid having an extortable commodity is to have a debit system where the called parties (the families) control the funds. In such a system, a family member would purchase a debit account under his or her own name and control. A prisoner would be allowed to call this family member as long as there were funds in the pre-paid account. Removing the cash from prisoner control will remove most of the penological concern and eliminate any additional administrative costs for the prison in handling debit accounts. As will be demonstrated below, the collect calls initiated from the sample prison systems are quite expensive. At the end of the day, it is the families and acquaintances of the prisoners who pay for collect calls. Given a choice, many of these called parties would much rather establish a personal debit fund if the calls could be cheaper.

---

<sup>8</sup> Upon information and belief, one of the CCA facilities involved in the *Wright* case, the Northfork Correctional Facility located in Sayre, Oklahoma, did not allow inmates to make debit card or debit account calls; they were provided only the option of collect calling.

35. A debit system that allows families to pay for calls instead of having the prisoners pay would not increase costs or administrative burdens for the prison. In most contracts between prisons and providers that I have seen, the carrier usually absorbs all of the costs of running the prison telephone system, including the switch and the software. In this case, of course, Evercom also bills everyone who accepts collect calls. As long as the service provider is responsible for the cost of maintaining external family debit systems, there should be no additional cost or burdens for the prisons.

36. In the telephone industry, revenues that are billed but not collected from customers are classified as uncollectibles. A significant number of people who accept collect calls from prisoners subsequently refuse or are unable to pay for the calls. The underlying prison calling provider must absorb the lost revenues from any calls that are not collected. The uncollectible rate for inmate collect calls can be very high. According to its year-end 2000 10-K Report, Evercom states that it has always had high uncollectible revenues from inmate collect calling.<sup>9</sup> However, Evercom should experience very little, if any, uncollectibles from debit calls. In a debit system, the calls are pre-paid, and when a call is placed, the service provider can instantly collect from the debit card account. Accordingly, uncollectibles in a debit system should be virtually zero. A debit system would also allow the service provider to collect the cash from calls in advance -- at least thirty days earlier than with collect calling -- which is a big plus for any telecom provider.

37. Prison administrators have argued that debit calling does not offer as many penological safeguards as collect calling. In particular, they point to the penological requirement that telephone privileges not become a commodity. They suggest that allowing prisoner debit accounts can create a currency or credit that can be sold or extorted. The federal system, however, which allows debit calling, has taken several steps to reduce the possibility

---

<sup>9</sup> Evercom's 10-K Report, which is attached hereto as Exhibit 2, states, in Part I, Item 1, at "Federal Regulation," that "[b]ad debt is substantially higher in the inmate telephone industry than in other segments of the telecommunications industry."

that debit calling might result in the creation of a commodity. The Federal BOP has very strict rules concerning the ability of prisoners' families to replenish the funds in a debit account. They restrict such debit fund payments to a small list of outside parties that includes lawyers and direct family members. Other penological tools also help to reduce the possibility of creating a commodity. For example, strictly limiting the calling for each prisoner to a pre-approved list of telephone numbers greatly reduces the attractiveness of any other inmate's account, particularly if this technique is combined with the inability to re-originate calls. It should also be kept in mind that a collect calling system can be abused as much as a debit calling system. Whatever value can be extorted from another inmate's debit account could also be extorted from his collect calling PIN. If implemented properly, as has been done in many prisons, there is no specific advantage to collect calling over a debit system.

38. In summary, a debit card system can meet all of the same penological requirements as a collect system. The only real difference between the two systems is who pays for calls and how they pay. In a properly designed debit system, there is no additional burden for prison officials. There also does not have to be an additional source of funds available to prisoners that can be extorted. The only real difference between a well-designed debit system and a collect system is how the prisoners or the families of prisoners pay for calls. There is therefore no penological justification for limiting inmates to collect calling services, rather than providing a choice between collect and debit calling.

## **VI. COMPETITION IN PRISON CALLING**

39. Many prison inmates and families of prisoners, including the petitioners in this proceeding, have asked for the introduction of competition into inmate calling services. In every other segment of the telephone industry, competition has very effectively lowered the cost of long distance calling. The cost of calling has tumbled everywhere over the last few decades except within prisons like the ones in the referral case. This affidavit will demonstrate that it would be economically and technologically feasible to introduce competition into prison inmate

calling services, consistently with all legitimate security and other penological requirements, thereby allowing for more options for families and ultimately resulting in lower rates. As other observers have noted, the penological justifications for exclusive inmate calling service arrangements are factually unsubstantiated and pretextual.<sup>10</sup>

40. The best way to get competition into inmate calling services, and thereby benefit prisoners' families or other telephone service bill payers receiving calls from prisoners, would be to allow inmates to choose among different IXC's; in effect, to create an equal access multi-carrier platform for each prison calling system. One possible mechanism for such a system will be discussed in more detail below. One question that is routinely asked by family members is why the prisons do not allow the use of commercial calling products, such as 1-800-COLLECT or commercial debit cards. As described above, these commercial products allow the re-origination of calls. Prison administrators claim that the prison system needs to maintain control of the call from beginning to end for security reasons and that if a prisoner were allowed to use a commercial calling platform that allows the re-origination of calls, many of the penological safeguards discussed above would be bypassed, thereby making abuses possible. Leaving aside the merits of such claims and the potential use of techniques to maintain control over re-originated calls, it would be feasible to allow multiple IXC's to offer services to any given prison facility, and thereby bring the benefits of competition to prison inmate calling, while meeting all of these objections to the use of standard commercial calling products.

41. Following is one such mechanism that could be used to allow multiple carriers to compete within a prison calling system. There may be other mechanisms that will work, but the goal of this example is to demonstrate that competition is technologically and economically feasible, consistent with all of the security and other penological concerns discussed above. The

---

<sup>10</sup> See Justin Carver, *An Efficiency Analysis of Contracts for the Provision of Telephone Services to Prisons*, 54 Fed. Comm. L.J. 391, 394 (2002) ("Carver"). A copy of this article is attached as Exhibit 4 hereto.

primary reason to provide for multiple carriers is to allow choice, thereby creating competition and the resultant lower rates. The FCC has spent considerable effort in the last twenty years to ensure that consumers everywhere have choice, and the presumption has always been that choice is beneficial. The evolution to more choices for long distance and local calling has led to lower prices, creative new products and overall greater satisfaction among telephone subscribers in the U.S. However, the families of prisoners in the CCA and other prison systems are the last group of telephone consumers in the U.S. who are still being denied choice.

42. One way to allow competition in prison inmate long distance calling services would be to authorize a multi-carrier platform provided by an underlying service provider in each prison that would supply the prison telephone system hardware and software. This underlying provider would supply the switch and software, the phones, the management control system and any other required components of the prison calling system. The various carriers offering competitive long distance services to the inmates would interconnect with the underlying carrier's prison telephone system. The underlying service provider could be compensated for providing the prison telephone system by a charge imposed on the interconnecting competitive carriers, based on the costs of installing and operating the prison system. This charge would compensate the underlying carrier for the switch, software, maintenance and operating costs for providing the system, but would not include the cost of providing the long distance transmission. The underlying provider could recover its costs through a per minute charge levied against all long distance calls placed from the prison and carried by one of the competitive service providers. As discussed below, these costs would range from 4.4 to 5.9 cents per minute.

43. In order to implement a long distance multi-carrier choice through a prison telephone system switch, each competitive carrier should be required, at its own cost, to provide long distance transport facilities to the prison switch. These facilities would typically consist of T-1 trunks (a digital transmission link with a capacity of 1.544 Mbps, enough for 24 simultaneous voice conversations), that go from the prison switch to the IXC's point of presence

("POP"). Each IXC also would be required to pay the underlying carrier for the fixed cost per minute of providing the prison system. Each IXC would then be free to compete on price and service to get the prison calling business. Each IXC would be free to charge any rate it chose as long as it agreed to first pay the underlying provider to interconnect with the prison system. In such a competitive system, the underlying provider could also be allowed to offer a competitive long distance product along with the other competitive carriers, as long as it also covered its basic per minute system fee on an imputed basis.

44. In this way, prisoners, or the prisoners' families, would be able to select the carrier of choice from a menu of available interconnecting carriers. Today, the prisoners get a prompt in most prisons to choose between debit calls and collect calls. In the competitive environment, they would get an additional prompt asking them to select a carrier for whichever type of call they elected to use. Prisoners could also be allowed to "choose" a carrier on a more permanent basis in order to avoid going through the carrier selection screen for each call. The competitive carriers would be free to market directly to the people who actually pay for the long distance calls made by prisoners -- in most cases, the families. Families could elect to purchase calling products from the competitive carriers offering the best deals. Since there is such a large volume of calls made from prisons, a number of different carriers could be expected to compete for the business from each prison. There is little doubt that such side-by-side competition among multiple IXCs would lead to much lower long distance rates than those in place in these prisons today.

45. It is important to note that even in such a multiple-provider system, all of the penological requirements discussed above would continue to be met. The software in the prison telephone system switch would continue to provide all of the necessary security functions, just as it does today. Adding a choice of carrier to the calling process would not affect or modify any of the penological safeguards built into today's systems. Prisoners would still place calls under the complete control of the prison phone system. This system would maintain control of the entire

call using all of the rules and safeguards in place today. A call would only be completed after it could be ascertained that the prisoner was not making unauthorized calls and that the carrier was being paid for the call. Because the long distance provider carrying the call would be interconnected at the prison system switch, control over the entire call could be maintained, just as it is today. At the end of each call, the underlying service provider would assess the system fee to the IXC carrying the call. The IXC that handled the call would then charge the inmate's debit account for the call, including the underlying system fee.

46. There have been other proposals in the past that have suggested ways to offer competitive calling in prisons. Some of them involve handing off inmate calls to another network not directly interconnected with the prison telephone system. The proposal set forth in this affidavit would require that the underlying carrier process a call up to the point where the call was handed off to an IXC for completion. That hand-off would take place at the switch exclusively serving, and under the administrative control of, the prison. There would be a requirement that calls remain under the control of the initial switch for the entire duration of the call. Competitive carriers would be prohibited from transferring any inmate calls to other IXCs or to any carriers other than the terminating LEC serving the called party. The interconnecting carriers thus would be in the business of completing long distance calls, but, because they would take the calls at the prison system switch and deliver them to terminating LECs, they would not have the ability to bypass any of the penological requirements of each prison, which would be implemented and enforced by the underlying switch provider, just as Evercom enforces those requirements today.

47. As demonstrated above, this competitive proposal would be technically feasible and would not be a major burden for carriers, it would safeguard the rights of consumers, and it would maintain all of today's penological safeguards. It would also attract numerous additional competitive IXCs to compete for long distance inmate calling service. Most IXCs would view a

prison system, with its many concentrated minutes, to be a premium opportunity to be pursued. If we build a competitive environment, the carriers will come.

48. Implementing such a competitive system would cause a fundamental change in the way that the underlying provider does business. Allowing multiple carriers to compete would require some hardware and software changes to the prison calling systems. While these changes are relatively minor, there would be some small incremental start-up costs in implementing competition. In the past, the FCC has not hesitated to impose requirements that increase carriers' short run costs when such changes were necessary to facilitate competition. There are numerous examples of FCC orders that have required carriers to expend money for capital and software. In recent years, we have seen orders requiring the provision of "LIDB" (line information database) functions,<sup>11</sup> payphone call tracking<sup>12</sup> and others. As will be demonstrated below, the capital required to implement a competitive solution is too insignificant to be a barrier to change, especially given that the underlying telephone system provider would be able to recover the complete cost of providing the prison calling system from each call, including a reasonable profit.

49. There is no question that introducing competition into the prison calling system is in the public interest. Regulatory bodies have often assumed that exclusive inmate calling service arrangements were required in order to meet legitimate security and other penological

---

<sup>11</sup> See generally *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, 7 FCC Rcd 3528 (1992) (subsequent history omitted) (requiring LECs to provide non-discriminatory access to the validation and screening information located in the LECs' line information database so that IXC's can accept and complete calling card calls).

<sup>12</sup> See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 20541, 20588, 20590-91 (1996) (subsequent history omitted) (requiring IXC's to track calls they receive from payphones in order to ensure fair compensation for each payphone call, despite the IXC's' claims that implementing tracking mechanisms would require significant expenditures of capital).



requirements, and this assumption has contributed to past rulings that have upheld the current prison inmate calling regime. In the past, that assumption might have been valid. At this point, however, as explained above, it is clear that competitive long distance inmate calling services are perfectly compatible with security, antifraud and other penological requirements. Given that it is typically non-inmates -- families and attorneys -- that ultimately pay for inmate long distance calls, it must be concluded that these consumers deserve the same rights to choice as do all other callers. Moreover, lowering the cost of prison inmate calling would bring about penological benefits, such as improving family relations for prisoners and improving the chance of successful rehabilitation and integration into the community after the sentence is completed. Finally, as demonstrated below, the competitive system envisioned here would be economically feasible.

## **VII. THE COST OF PRISON INMATE CALLING**

50. This section will explore the potential cost of providing the competitive prison system described above. The goal in this section is not to specifically identify the precise costs of providing inmate long distance calling services. Rather, this section is intended to examine whether such a system would be economically feasible by analyzing the potential range of costs, particularly the costs of the underlying system that would be used by all of the competitive IXC's.<sup>13</sup> As will be demonstrated, even the most conservative estimate of the cost of implementing this proposal is so reasonable that any objections to it based on cost burdens could not be valid. Several different sources have been reviewed in analyzing the costs that would be incurred by the underlying system provider, including Evercom's public financial data. Evercom is a useful source of data, not only because it is the primary provider involved in the referral case, but also because it is one of the largest prison inmate calling service providers in the country.

---

<sup>13</sup> The cost of providing the long distance segment of the service will also be discussed, but only as a comparison with other estimates filed with the FCC by inmate service providers. The primary focus of this analysis will be the costs of providing the underlying telephone system. The costs of the long distance segment "wash out" of any economic feasibility analysis because competition in the provision of the long distance segment of the inmate service will quickly reduce the rates charged by the competitive long distance carriers to the most efficient cost.